

CERTIFICATE OF MAILING

I hereby certify that this DECLARATION
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Washington, D.C. 20231, on this 11th day of
May, 2003.

Wendy A. Frick
Signed: Wendy A. Frick

PATENT**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of
Plass

Serial No.: 09/775,398

Filed: January 31, 2001

For: **DETECTION OF METHYLATED
CpG RICH SEQUENCES
DIAGNOSTIC FOR
MALIGNANT CELLS**

) Examiner: Meyers, Carla J.
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) Group Art Unit: 1634
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) Attorney Docket No.: 22727/04075
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Assistant Commissioner for Patents
Washington, D.C. 20231

Rule 1.132 Declaration (In re Katz) of Dr. Christoph Plass

Dear Sir:

I, Christoph Plass, the inventor in the above-identified application, state as follows:

1. I am the sole inventor of the methods described and claimed in the above identified patent application.

2. I, along with Joseph F. Costello, Michael C. Fröhwald, Dominic J. Smiraglia, Laura J. Rush, Gavin P. Robertson, Xin Gao, Fred A. Wright, Jamison D. Feramisco, Päivi Peltomäki, James C. Lang, David E. Schuller, Li Yu, Clara D. Bloomfield, Michael A. Caligiuri, Allan Yates, Ryo Nishikawa, H.-J. Su Huang, Nicholas J. Petrelli, Xueli Zhang, M. Su O'Dorisio, William A. Held and Webster K. Cavenee are co-authors of the paper entitled "Aberrant CpG-island methylation has non-random and tumour-type-specific patterns," published in Nature Genetics, volume 25, pages 132-138, February 2000 (hereinafter, the "Costello et al. paper").

3. The other individuals listed as authors of the Costello et al. paper, namely J. F. Costello, M. C. Fröhwald, D. J. Smiraglia, L. J. Rush, G. P. Robertson, X. Gao, F. A. Wright, J. D. Feramisco, P. Peltomäki, J. C. Lang, D. E. Schuller, L. Yu, C. D. Bloomfield, M. A. Caligiuri, A. Yates, R. Nishikawa, H.-J. S. Huang, N. J. Petrelli, X. Zhang, M. S. O'Dorisio, W. A. Held and W. K. Cavenee, did not discover or invent the methods described and claimed in the above identified application. None of these individuals made a conceptual contribution to the inventions claimed in the present application.

4. At the time the studies described in the Costello et al. paper were conducted, J. F. Costello was, initially, a postdoctoral fellow in the laboratory of W. K. Cavenee, the laboratory managed by H.-J. S. Huang. Costello had access to certain tumor tissues and generated some of the data using application of the inventive methods in consultation with me. Later, J. F. Costello continued some of the work on these tumor tissues in his laboratory at the University of California, San Francisco. G. P. Robertson assisted with some of this work, as a postdoctoral fellow in Costello's laboratory.

5. At the time the studies described in the Costello et al. paper were conducted, X. Zhang was a postdoctoral fellow in the laboratory of W. A. Held. Zhang had access to certain tumor tissues and generated some of the data using application of the inventive methods in consultation with me.

6. At the time the studies described in the Costello et al. paper were conducted, D. J.

Smiraglia, J. D. Feramisco, L. Yu, M. C. Frühwald and L. J. Rush were postdoctoral fellows in my laboratory and worked under my supervision. M. C. Frühwald also provided tissue samples. L. J. Rush then continued some of the work in her own laboratory in the Department of Veterinary Sciences at Ohio State University in consultation with me.

7. At the time the studies described in the Costello et al. paper were conducted, C. D. Bloomfield, M. A. Caligiuri, A. Yates, , R. Nishikawa, N. J. Petrelli, P. Peltomäki, J. C. Lang, D. E. Schuller and M. S. O'Dorisio provided tissue samples.

8. At the time the studies described in the Costello et al. paper were conducted, X. Gao and F. A. Wright were statisticians who provided data analysis.

9. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

May 13, 2003
Date


Christoph Plass